



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 356 OF 2023

Daya Shankar Chaubey

....COMPLAINANT

VERSUS

1. Designer Realtors Private Limited.

2. Shalimar Town Planners Pvt. Ltd.

3. Business Park Maintenance Pvt. Ltd.

....RESPONDENT

**CORAM: Parneet Singh Sachdev
Nadim Akhtar
Chander Shekhar**

**Chairman
Member
Member**

Date of Hearing: 29.02.2024

Hearing: 5th

Present: - Mr. Saket Singh, Ld. Counsel for the complainant.
Mr. Hemant Saini, Ld. Counsel for the respondents.

ORDER (PARNEET SINGH SACHDEV – CHAIRMAN)

1. Ld. Counsel for the respondents submitted that in present complaint, ld. counsel for the complainant has sought various reliefs but his pleadings are not in consonance of his relief clause. Therefore, present complaint is liable to be dismissed.

2. With respect to the objection taken by the respondent's counsel, Id. counsel stated that he seeks permission to amend his complaint.
3. Authority observes that question herein arises that whether at this stage of proceedings (5th date of hearing), when the case is fixed for arguments, amendment can be allowed or not?
4. For deciding the aforesaid question, Authority refers to the judgement of apex court titled as Pankaja & Anr. V. Yellappa by LR's and Ors. (Civil Appeal Nos. 4983-4984 of 2004) wherein the Hon'ble Supreme Court has held that the court's decision whether amendment should be allowed or not depends on the specific factual background of the case. If the facts and circumstances demonstrate that the amendment is necessary to determine the cause of action and avoid further litigation, the court should allow such application.
5. In the present case, if Authority decides to dismiss the case for the reason that various reliefs claimed by the complainant are not in consonance with the pleadings then the complainant will not have other option except for filing a fresh complaint which will result in further litigation. If the amendment is allowed, he will amend his complaint and the present case will be heard on merits after receiving reply from the respondent.
6. Another case which has been referred by the Authority is North Eastern Railway Administration, Gorakhpur v. Bhagwan Das(Civil Appeal No. 2785 of 2008) wherein it has been held that amendments can be made at



any stage of proceedings and should be allowed if they meet two conditions: (a) they do not cause injustice to the other side and (b) they are necessary for determining the real issue in dispute between the parties.

7. In the present case, the relief as claimed by the complainant are the real issues and allowing amendment is necessary for determining the real issues in dispute between the parties. Therefore, complainant is allowed to amend his complaint with an advance copy supplied to the opposite party. Respondent to file reply to the said amended complaint within 2 weeks of receipt of amended complaint.
8. Case is adjourned to **11.07.2024**.


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CHANDER SHEKHAR
[MEMBER]


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NADIM AKHTAR
[MEMBER]


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PARNEET SINGH SACHDEV
[CHAIRMAN]